

SENATE BILL 160

By Fowler

AN ACT to create and establish the elective office of solicitor general and to amend Tennessee Code Annotated, Title 8, Chapter 6; Title 38, Chapter 5 and Title 38, Chapter 6.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. There is created within the executive branch the office of solicitor general of Tennessee. The solicitor general shall be chosen by the voters of the entire state at the November general election in which a governor is quadrennially selected. Candidates for the office of solicitor general may be qualified as political party candidates or as independent candidates. The solicitor general's term of office shall commence on the fifteenth day of January immediately following such November general election and shall continue for a term of four (4) years. A person may serve not more than two (2) successive four (4) year terms as solicitor general.

The solicitor general shall be learned in the law and shall be licensed to practice law in all the courts of the state of Tennessee and shall, at the time of assuming the duties of office, be at least thirty-five (35) years of age. The solicitor general shall devote full time to the duties of office and may not engage in the private practice of law.

If a vacancy occurs in the office of solicitor general, then the governor shall appoint a qualified successor to the office who shall serve until the next succeeding November general

election when a successor shall be elected and assume the duties of office upon being certified as having been elected. If such successor is elected at a November general election at which a solicitor general would not normally be elected, then he or she shall serve only for the remainder of the unexpired term, but if elected at a November general election at which a solicitor general would otherwise have been elected, then he or she shall serve a full four (4) year term.

SECTION 2.

(a) The solicitor general shall be executive head of the legal department of the state. The legal department shall consist of the solicitor general and his or her assistants and employees. The solicitor general shall maintain offices in Nashville in space which shall be provided by the department of finance and administration.

(b) The attorney general and reporter is relieved of all statutory duties, rights, privileges, responsibilities and restrictions imposed by Tennessee Code Annotated, Title 8, Chapter 6, except for § 8-6-109(b)(7), and §§ 8-6-201 through 8-6-207, and is relieved of such other duties, rights, privileges, responsibilities and restrictions as may be imposed upon the attorney general and reporter by other provisions of law.

(c) The attorney general and reporter shall continue to be responsible for reporting the opinions of the supreme court of Tennessee as provided by § 8-6-109(b)(7) and §§ 8-6-201 through 8-6-207.

(d) The solicitor general of the state of Tennessee shall assume all duties, rights, privileges, responsibilities and restrictions of which the attorney general and reporter is relieved pursuant to subsection (b).

SECTION 3. Tennessee Code Annotated, Section 8-6-103, is amended by adding the following new paragraph:

All assistants assigned to or employed in the office of the attorney general and reporter on January 1, 2004, shall be transferred to the office of the solicitor general and be under jurisdiction, supervision and administrative control of the solicitor general,

except those assistants who are occupied in the performance of the duties set forth in § 8-6-109(b)(7) and §§ 8-6-201 through 8-6-207. The justices of the supreme court shall designate the number of assistants necessary to perform these functions before January 1, 2004.

SECTION 4. Tennessee Code Annotated is amended by deleting the words "attorney general" or "attorney general and reporter" wherever the same shall appear, with the exceptions noted herein, and substituting in lieu thereof the words "solicitor general".

The Tennessee code commission is hereby directed to replace references to the attorney general or attorney general and reporter only in the regular course of updating the Tennessee Code in regular supplemental volumes and the commission shall not be required to formulate supplements which merely insert the words "solicitor general" it being the intent of this general assembly hereby expressed that wherever the words "Attorney General or Attorney General and Reporter" appear with the exceptions noted, they shall be construed to refer to the "solicitor general of the state" after the effective date of this act.

SECTION 5. The solicitor general shall receive the same salary as an associate justice of the supreme court, payable in equal monthly installments out of the treasury of the state by warrant of the commissioner of finance and administration upon the treasurer. The solicitor general shall employ, and within budgetary limitations, fix the salaries of his or her assistants and other employees. The solicitor general and his or her assistants and employees shall be reimbursed for official travel expenses in accordance with the official executive policies governing travel at state expense.

SECTION 6. The person holding the office of attorney general and reporter on January 1, 2004, shall assume the duties of solicitor general as set forth in this act and shall serve as solicitor general until January 15, 2005. Notwithstanding the provisions of Section 1 to the contrary, the first elected solicitor general shall be elected under the terms of this act at the

November general election in 2004, for a two (2) year transitional term, and shall take office on January 15, 2005.

SECTION 7. The provisions of this act are hereby declared to be severable, and if any of its sections, provisions, clauses or parts be held unconstitutional or void, then the remainder of this act shall continue in full force and effect, it being the legislative intent now hereby declared, that this act would have been adopted even if such unconstitutional or void matter had not been included therein.

SECTION 8. This act shall take effect January 1, 2004, the public welfare requiring it.